

IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.10427 of 2007
MITHU PASWAN & ANR
Versus
STATE OF BIHAR & ANR

4 02-09-2008 Heard M/S Krishna Mohan and Diwakar Upadhaya, the learned counsels for the petitioners, Mr Sanjeev Kumar Singh, the learned counsel for Opp.Party no.2 and Mr.Jharkhandi Upadhaya, the learned A.P.P. for the State.

Through this application the petitioners have prayed for the quashing of the order dated 4.3.2006 passed by Sri P.K.Prasad, the learned Sub Divisional Judicial Magistrate, Katihar, in Complaint Case No.2639 of 2005 whereby he has taken cognizance under Section 498A I.P.C. and 3 / 4 of the Dowry Prohibition Act against both the petitioners.

Assailing the impugned order, it has been submitted on behalf of the petitioners that the learned Magistrate had exceeded his jurisdiction in taking cognizance since no part of the cause of action took place within the jurisdiction of any of the courts in the Judgeship of Katihar. In this connection it was sought to be pointed out that in the complaint petition the place of occurrence is indicated as Naugachia and the marriage is said to have taken place in the **nanihali** village of the complainant in the District of Sahebganj, none of which fall within the territorial jurisdiction of the courts in the Judgeship of Katihar. It is further submitted that according to the complaint petition, the complainant resided with her husband after the marriage

at Naugachia and her father-in-law , petitioner no.1 also lived with them and it was here that she was subjected to torture and assault.

The learned counsel for Opp.Party no.2 on the other hand submitted that since the complainant on her ouster from the matrimonial house , she was living with her father at Katihar and as such, the Katihar court had jurisdiction to entertain the complaint petition.

Section 177 Cr.P.C. simply says that ordinarily, every offence would be tried by a court within whose local jurisdiction it was committed. Admittedly no part of the cause of action took place within the jurisdiction of the Katihar courts. As such, the taking of cognizance by the Katihar court was in excess of the jurisdiction vested in him and is an abuse of the process of the court.

Accordingly, the application succeeds and the impugned order is quashed. The learned Magistrate will return the complaint petition to the complainant who may, if so advised, file the same before the appropriate forum.

(Abhijit Sinha, J)

NKS/-